

### **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed August 9, 2006 (Paper No. 20060802). Upon entry of this response, claims 41, 43, 45, 47-48, 50, 52, 54-55, 57, 59, and 61-64 are pending in the application. In this response, claims 41, 43, 45, 47-48, 50, 52, 54-55, 57, 59, and 61 have been amended. Applicants respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

#### **1. Claim Objections**

Claims 61-63, added in the last response, are objected to because of incorrect numbering. In the listing of claims in this response, Applicants have re-numbered these claims as 62-64. Applicants submit that the objection has been overcome, and request that the objection be withdrawn.

#### **2. Rejection of Claims 45, 52, 59, and 62-64 under 35 U.S.C. § 112, First Paragraph**

Claims 45, 52, 59, and 62-64 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Office Action states that the specification fails to describe “determining the round trip time based upon the LSR timestamp, the DLSR, and the first timestamp” or “subtracting both the LSR timestamp and the DLSR from the first timestamp to determine the round-trip delay”. (Office Action, p. 3, paras. 1-2.) Applicants respectfully disagree. The instant specification describes an arithmetic calculation which produces the round trip time from the LSR, DLSR and the time at which a receiver report is received. (Specification, p. 18, lines 10-15). Applicants submit that a person of ordinary skill in the art, reading the instant specification, would understand that the inventor had possession of the subject matter of the features recited in claims 45, 52, 59, and 62-64. Applicants respectfully requests that the rejection be withdrawn.

3. Rejection of Claims 41, 43, 48, 50, 55, and 57 under 35 U.S.C. §102

Claims 41, 43, 48, 50, 55, and 57 have been rejected under §102(e) as allegedly anticipated by *Grabelsky et al.* (U.S. 6,678,250). Applicants respectfully traverse this rejection. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

a. Claims 41, 48, and 55

The Examiner and Applicants appear to have reached agreement that *Grabelsky et al.* discloses determining a round-trip delay between a source gateway and a destination gateway. However, the parties disagree about how those teachings are applied to claims 41, 48, and 55. According to the Office Action, “the Examiner equates the media router with either the source gateway or the destination gateway where a round-trip delay is measured.” The Office Action further indicates that “it is the endpoint that measures round-trip delay...it can’t be a media router that measures round-trip delay as argued by Applicants” (Office Action, p. 6, para. 10.)

The Office Action then refers to several passages in the instant specification as an explanation for the above claim interpretation:

[A] round trip delay is measured not in the media router (figure 2, element 137) but endpoint media router (figure 1, element 118). The specification describes that the media router (figure 1, element 118) is an endpoint (claim 2 dated 7/23/2001) and it is the endpoint router that measures round-trip delay (specification, page 13, lines 7-13.) (Office Action, p. 6, para. 10.)

Applicants respectfully disagree with the Examiner’s interpretation of claims 41, 48, and 55. The specification describes several variations of a media router – 118, 136, and 137 – but neither the specification nor the claims refer to router 118 as an “endpoint media router”. Furthermore, although the specification does refer to media router 118 in connection with measuring latency (p. 13, lines 7-13), the specification also indicate that the term “multi-media

router” is interchangeably used for routers 118, 136 and 137: “FIG. 3 is a block diagram further illustrating a multi-media router 118, 136, 137 (FIG. 1) (referred to hereinafter as 118).” (p. 10, lines 17-18.) Therefore, Applicants submit that the Examiner is impermissibly reading limitations from the specification into the claims.

However, to clarify the meaning of the term “endpoint”, Applicants have amended claims 41, 48, and 55 to recite “call endpoint”. Exemplary claim 41 now recites “a method for determining latency for a real-time transport protocol (RTP) data flow between a first call endpoint and a call second endpoint”, and further recites the feature of “intercepting a first RTCP sender report sent from the first call endpoint to the second call endpoint”. Exemplary claim 41 further recites the RTCP “report transiting **through** the media router” and “determining, **in the media router**, a round-trip delay between the first call endpoint and the second call endpoint”. The media router as claimed is therefore neither the source nor the destination (the first/second endpoint) of the RTCP report for the purpose of the latency determination. Moreover, the round-trip delay recited in the claims of the present application is determined in the media router, which is neither the first endpoint nor the second endpoint.

Applicants submit that a person of ordinary skill in the art, reading the instant specification, would understand that the inventor had possession of the subject matter of amended claims 41, 48, and 55. The Examiner’s attention is directed to at least the following passages of the instant specification: providing communication between SIP phones (p. 9, lines 18-25); monitoring RTP data flows passing through the multi-media router (p. 11, lines 15-25); generating flow quality statistics from RTP packets flowing through the network (p. 12, lines 15-20); and processing an RTCP stream that accompanies an RTP flow received from a SIP endpoint (p. 16, lines 1-5); and calculating round-trip time from RTCP sender/receiver reports (p. 18, lines 10-15).

For at least the reason that *Grabelsky et al.* fails to disclose, teach or suggest the above-recited features recited in claims 41, 48, and 55, Applicants respectfully submit that *Grabelsky*

*et al.* does not anticipate claims 41, 48, and 55. Therefore, Applicants request that the rejection of claims 41, 48, and 55 be withdrawn.

b. Claims 43, 45, 50, 52, 57, and 59

Since claims 41, 48, and 55 are allowable, Applicants respectfully submit that claims 43, 45, 50, 52, 57, and 59 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 43, 45, 50, 52, 57, and 59 be withdrawn.

4. Rejection of Claims 47, 54, and 61 under 35 U.S.C. §103

Claims 47, 54, and 61 have been rejected under §103(a) as allegedly obvious over *Grabelsky et al.* (6,678,250). Applicants respectfully traverse this rejection. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all features of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Since claims 41, 48, and 55 are allowable, Applicant respectfully submits that claims 47, 54, and 61 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 47, 54, and 61 be withdrawn.

**CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 41, 43, 45, 47-48, 50, 52, 54-55, 57, 59, and 61-64 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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